

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(06/02/2004 - 06/04/2004 Session)

NUMBER AND STYLE

NATURE OF CASE

03-4391

US v. Tamara L. Martin
(Bullock)

SENTENCING GUIDELINES. Whether criminal history points were properly assessed under USSG Section 4A1.1 for North Carolina convictions appealed for de novo trial. 15 mins. per side

03-2069

Wynne v. Great Falls SC
(Currie)

CONSTITUTIONAL LAW. Challenge to district court order enjoining religious invocations at town council meetings.

03-1896

Humanoids Group v. James E. Rogan
(Cacheris)

TRADEMARK. Whether the Patent and Trademark Office violated the APA by refusing to grant a filing date for trademark application.

03-1977

US v. Undetermined Amount
(Thornburg)

FORFEITURE. Whether funds in accounts seized in civil forfeiture action were properly released pre-trial to pay claimants' attorneys.

PANEL I
COURTROOM ONE
Courthouse Room 435 (Red Carpet)
9:30 a.m.

WEDNESDAY, JUNE 2, 2004

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(06/02/2004 - 06/04/2004 Session)

NUMBER AND STYLE

NATURE OF CASE

03-9

Kandies v. Polk
(Tilley)

HABEAS CORPUS. Numerous issues arising out of state capital murder conviction and sentencing.

03-1577

Ware v. Potter
(Messitte)

FEDERAL EMPLOYMENT. Challenge to dismissal of EEO claims for failure to exhaust administrative remedies; challenge to summary judgment on promotion and retaliation claims.

03-1263

Tchaya v. Ashcroft

IMMIGRATION. Whether the Board abused its discretion in denying Petitioner's motion to remand; whether the Board violated Petitioner's due process rights.

03-1281

Lucy v. Macsteel Service Ctr
(Cogburn)

ERISA. Whether denial of benefits was properly upheld on summary judgment.

PANEL II
COURTROOM TWO
Courthouse Room 233 (Green Carpet)
9:30 a.m.

WEDNESDAY, JUNE 2, 2004

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(06/02/2004 - 06/04/2004 Session)

NUMBER AND STYLE

NATURE OF CASE

03-2411

Gordon v. Hartford Fire Insur
(Williams)

INSURANCE. Challenge to denial of motion to remand to state court; whether policy covers default judgment damages.

03-6736

Nagy v. FMC Butner
(Boyle)

FTCA. Whether suit to recover damages under Federal Tort Claims Act for lost sweatsuit worth \$25 is frivolous within the meaning of 28 U.S.C. Section 1915(e)(2000).

03-1632

Jones v. Griffey
(Friedman)

CIVIL. Whether the district court erred in instructing jury with statutory table of experimental stopping distances for motor vehicles.

03-2042

Griffin v. Dept Veterans Affrs
(Nickerson)

CONSTITUTIONAL LAW. Whether agency's speech restrictions at Confederate cemetery violated First Amendment.

PANEL III
COURTROOM THREE
Courthouse Room 225 (Tan Carpet)
9:30 a.m.

WEDNESDAY, JUNE 2, 2004

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(06/02/2004 - 06/04/2004 Session)

NUMBER AND STYLE

NATURE OF CASE

03-1414
Mitrano v. Hawes
(Cacheris)

CIVIL. Whether venue was proper in the District Court for the Eastern District of Virginia.

04-1007
Globe Nuclear Svc v. AO Techsnabexport
(Chasanow)

CONTRACTS. Whether contract fell within the commercial activity exception of the Foreign Sovereign Immunities Act.

03-1899 (L), 03-2073 03-2346
Byrd v. Hopson
(Thornburg)

CIVIL. Multiple issues regarding disqualification of counsel, dismissal of action, imposition of monetary sanctions, and disbarment of counsel.

03-1937
Washington Square v. Aune
(Voorhees)

ARBITRATION. Challenge to order compelling arbitration in action alleging securities fraud.

PANEL IV
COURTROOM FOUR
Courthouse Room 420 (Tweed Carpet)
9:30 a.m.

WEDNESDAY, JUNE 2, 2004

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(06/02/2004 - 06/04/2004 Session)

NUMBER AND STYLE

NATURE OF CASE

03-4886

US v. Borhan Y. Musleh
(Williams)

CRIMINAL. Whether former spouse on behalf of child is "victim" for purpose of restitution (18 U.S.C. Section 3663(a)(2)) where defendant was convicted of making false statements (18 U.S.C. Section 1001); propriety of upward departure and admission of evidence.

03-2380

US Dept of Labor v. NC Growers Assn Inc
(Voorhees)

FAIR LABOR STANDARDS ACT. Whether Christmas tree farming is more akin to agricultural work or forestry and lumbering for purposes of overtime wages.

03-2458

Educational Credit v. Harig
(Wilson)

BANKRUPTCY. Challenge to district court's reversal of bankruptcy court's discharge of student loan.

03-2076

Honor v. Booz Allen Hamilton
(Hilton)

CIVIL. Whether the district court erred in granting defendant's motion for summary judgment on plaintiff's wrongful termination claim because plaintiff failed to show he was fired; other issues.

PANEL V
COURTROOM FIVE
Courthouse Annex Room 229
9:30 a.m.

WEDNESDAY, JUNE 2, 2004

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(06/02/2004 - 06/04/2004 Session)

NUMBER AND STYLE

NATURE OF CASE

04-4

Longworth v. Ozmint
(Blatt)

HABEAS CORPUS. Numerous issues arising out of state capital murder conviction and sentencing.

03-1331

Lopez-Soto v. Ashcroft

IMMIGRATION. Whether the Board erred in finding that petitioner failed to establish his eligibility for asylum, withholding of removal, or protection under the Convention Against Torture.

03-1621

NC Motorcoach Assoc v. NC State Bd of Edu
(Britt)

CONSTITUTIONAL LAW. Challenge to state's procedural guidelines for restricting use by public schools of chartered motor coaches.

03-1984 (L), 03-2139

NLRB v. West Penn Power Co

LABOR. Whether company failed to respond timely to union requests for information regarding outside contractors and a specific subcontract.

PANEL I
COURTROOM ONE
Courthouse Room 435 (Red Carpet)
9:30 a.m.

THURSDAY, JUNE 3, 2004

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(06/02/2004 - 06/04/2004 Session)

NUMBER AND STYLE

NATURE OF CASE

03-1814

Riccio v. Salisbury Police Dep
(Blake)

AMERICANS WITH DISABILITIES ACT. Whether requested
intervention constituted "reasonable accommodation" for
purposes of statute; other issues.

03-2271

Steve A. Harris, Inc v. Drake Petroleum Co
(Quarles)

CONTRACTS. Whether property seller's duty to remove
gasoline storage tanks included a duty to remediate
contamination.

03-1668

Rutledge v. Rutledge
(Morgan)

BANKRUPTCY. Whether award of attorney's fees was not
dischargeable under the "willful and malicious injury"
exception to discharge.

03-2033

Harvey v. Mingo Logan Coal Co
(Goodwin)

CIVIL. Whether the district court applied the correct state
statute of limitations to claim of failure to notify
pursuant to COBRA.

PANEL II
COURTROOM TWO
Courthouse Room 233 (Green Carpet)
9:30 a.m.

THURSDAY, JUNE 3, 2004

UNITED STATES COURT OF APPEALS
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NUMBER AND STYLE

NATURE OF CASE

03-1833

White v. BFI Waste Services
(Hilton)

EMPLOYMENT. Challenge to district court's granting summary judgment and motion to dismiss in Title VII action alleging racial discrimination, hostile work environment and disparate pay.

03-2020

Gaskins v. BFI Waste Services
(Lee)

EMPLOYMENT. Challenge to district court's granting summary judgment in Title VII action alleging racial discrimination, hostile work environment and disparate treatment.

03-2075

Choice Hotels Intl v. Niteen Hotels
(Chasanow)

ARBITRATION. Challenge to district court's confirmation of arbitration award where defendants' attorney was excluded from the arbitration hearing.

03-2059 (L), 03-2060 03-2061

Wachovia Bank Natl v. Schmidt
(Herlong)

ARBITRATION. Whether district court erred in refusing to compel arbitration of claims arising out of bank's marketing, promoting and selling of tax strategy plan.

PANEL III
COURTROOM THREE
Courthouse Room 225 (Tan Carpet)
9:30 a.m.

THURSDAY, JUNE 3, 2004

UNITED STATES COURT OF APPEALS
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(06/02/2004 - 06/04/2004 Session)

NUMBER AND STYLE

NATURE OF CASE

03-2078 Houston v. Building Trades (Stamp)	ERISA. Whether former employee welfare plan participants have standing to challenge denial of benefits; whether trustees and administrator breached their fiduciary duties.
03-2247 Patten Grading v. Skanska USA Bldg Inc (Herlong)	ARBITRATION. Whether party defaulted on right to compel arbitration by commencing litigation.
03-2084 Lampe v. Kim (Quarles)	TORTS. Challenge to contributory negligence jury instruction in action arising out of motor vehicle accident.
03-2081 Schlossberg v. Barney (Bennett)	BANKRUPTCY. Whether the Trustee can assert the rights of the IRS in objecting to debtor's claim of exemption of certain property held as tenants by the entireties with non-debtor spouse.

PANEL IV
COURTROOM FOUR
Courthouse Room 420 (Tweed Carpet)
9:30 a.m.

THURSDAY, JUNE 3, 2004

UNITED STATES COURT OF APPEALS
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NUMBER AND STYLE

NATURE OF CASE

03-2160
Singleton v. Dept of Corr Educ
(Jones)

TITLE VII. Whether summary judgment in favor of employer was proper in action alleging hostile work environment sexual harassment.

02-1896
Hunt v. US
(Motz)

TAX. Whether the government was required to pay taxpayer interest on a tax refund as a result of a net operating loss carry back.

03-2035
Kirby v. City of Elizabeth
(Boyle)

PUBLIC EMPLOYMENT. Whether police officer's truthful testimony at a public municipal hearing is protected speech on a matter of public concern.

03-2449
Miller v. Terramite Corp
(Haden)

ERISA. Whether district court properly denied plaintiff's voluntary dismissal of ERISA claim and granted summary judgment on age discrimination claims.

PANEL V
COURTROOM FIVE
Courthouse Annex Room 229
9:30 a.m.

THURSDAY, JUNE 3, 2004

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NUMBER AND STYLE

NATURE OF CASE

03-1985

Griggs v. E I DuPont
(Fox)

ERISA. Challenge to district court's grant of rescissionary relief giving claimant a new benefit election; attorney's fees.

03-1435

Camara v. Ashcroft

IMMIGRATION. Whether the immigration judge erred in failing to independently analyze Petitioner's Convention Against Torture claim as separate and distinct from her asylum and withholding of removal claims.

03-4696

US v. Pauletta Cuttino
(Thornburg)

CRIMINAL LAW & PROCEDURE. Whether appellant's Sixth Amendments rights were violated by denial of motion for continuance.

03-4865

US v. Iyman Faris
(Brinkema)

CRIMINAL. Whether district court abused its discretion in denying motion to withdraw guilty plea of defendant accused of assisting a terrorist organization.

PANEL I
COURTROOM ONE
Courthouse Room 435 (Red Carpet)
8:30 a.m.

FRIDAY, JUNE 4, 2004

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(06/02/2004 - 06/04/2004 Session)

NUMBER AND STYLE

NATURE OF CASE

02-2078
Akwada v. Ashcroft

IMMIGRATION. Whether the Board abused its discretion in denying motion to reopen in absentia removal order based on claim that petitioner did not receive notice of hearing.

03-4902
US v. Kenneth R. Spring
(Mullen)

SENTENCING GUIDELINES. Challenge to downward departure for a career offender.
15 mins. per side

03-4520
US v. Ziadeh
(Williams)

SENTENCING. Whether appellant waived his right to appeal district court's restitution order.

03-4478
US v. Travis Johnson
(Faber)

SEARCH & SEIZURE. Whether the gun found in the defendant's vehicle should have been suppressed.

PANEL II
COURTROOM TWO
Courthouse Room 233 (Green Carpet)
8:30 a.m.

FRIDAY, JUNE 4, 2004

UNITED STATES COURT OF APPEALS
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NUMBER AND STYLE

NATURE OF CASE

03-2177 (L), 03-2178 03-2179
RJ Griffin & Co v. Beach Club
(Houck)

ARBITRATION. Challenge to district court's denial of motion to compel arbitration of claims of a non-signatory to a construction contract arbitration clause.

03-2341
Bradley v. American Household
(Stamp)

SANCTIONS. Challenge to award of sanctions in product liability case for alleged discovery abuse in failing to preserve product remains.

04-4014
US v. Arnell D. Davis
(Friedman)

CRIMINAL. Whether upward departure under USSG Sections 2K2.4, 2J1.2, and 2J1.3 was appropriate; whether extent of departure was reasonable; sufficiency of evidence.

03-4743
US v. Alton Bivins
(Williams)

CRIMINAL LAW & PROCEDURE. Sufficiency of indictment and evidence to convict defendant of unlawful monetary transactions; other issues.

PANEL III
COURTROOM THREE
Courthouse Room 225 (Tan Carpet)
8:30 a.m.

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NATURE OF CASE

03-4467 US v. Shirley E. Smith (Currie)	SENTENCING GUIDELINES. Whether the district court properly applied the rules for grouping multiple counts, pursuant to USSG Section 3D1.2(c), in determining defendant's offense level. 15 mins. per side
03-2092 Bogart v. County of York (Currie)	CIVIL RIGHTS. Challenge to summary judgment in action alleging improper seizure and immediate destruction of plaintiff's animals.
03-1867 College Loan Corp v. SLM Corporation (Cacheris)	HIGHER EDUCATION ACT. Whether defendants violated the Act's ten-day and single holder rules in processing student loan applications.
03-4802 US v. Desmond Ollivierre (Currie)	CRIMINAL. Did prosecutor's statements during closing argument amount to a comment on defendant's failure to testify; other issues.

PANEL IV
COURTROOM FOUR
Courthouse Room 420 (Tweed Carpet)
8:30 a.m.

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UNITED STATES COURT OF APPEALS
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NUMBER AND STYLE

NATURE OF CASE

04-1375
VA State Police v. Washington
(Moon)

FIRST AMENDMENT. Challenge to district court's order rejecting assertion of compelling governmental interest in sealing and directing release of Virginia State Police documents previously filed under seal.

03-2283 (L), 03-2325
Kinneyman v. Speedway Super
(Wooten)

TITLE VII. Challenge to jury award of compensatory and punitive damages for discriminatory failure to promote; attorney's fees.

03-4890
US v. James E. Sanders
(Kiser)

SEARCH & SEIZURE. Challenge to granting of motion to quash grand jury subpoena on the ground that it was tainted by search warrant of unauthorized officer executed in bad faith.

03-2146 (L), 03-2147
Freeman v. Thaxton
(Tilley)

LABOR MANAGEMENT RELATIONS ACT. Whether grievance settlements under collective bargaining agreement are "labor contracts" under the Act, barring claims of breach of contract, tortious interference with contract and unfair trade practices.

PANEL V
COURTROOM FIVE
Courthouse Annex Room 229
8:30 a.m.

FRIDAY, JUNE 4, 2004